

## Geoff Baker

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**From:** Geoff Baker [gabaker@dowellbaker.com]  
**Sent:** Tuesday, May 13, 2008 9:24 AM  
**To:** 'emanzo@cookalex.com'; 'Louis Alex'  
**Cc:** 'Joel Bock'; 'Jason Smalley'; 'Steven L. Katz'; 'George H. Kobayashi'; 'Nancy E. Sasamoto'; 'Bob Karton'; 'Vernon Francissen'  
**Subject:** RE: Witness Lists

Ed,

We aren't dictating anything.

You are refusing to identify witnesses who will need to be deposed before we file our response a week from Friday. If you have witnesses that have yet to be deposed, identify them and supply us with dates on which they are available for deposition.

Geoff

Geoffrey A. Baker  
DOWELL BAKER, P.C.  
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Oak Park, IL 60302  
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-----Original Message-----

From: Edward D. Manzo [mailto:[emanzo@cookalex.com](mailto:emanzo@cookalex.com)]  
Sent: Tuesday, May 13, 2008 9:52 AM  
To: Geoff Baker; Louis Alex  
Cc: Joel Bock; Jason Smalley; Steven L. Katz; George H. Kobayashi; Nancy E. Sasamoto; Bob Karton; 'Vernon Francissen'  
Subject: Re: Witness Lists

Geoff,

Kindly refrain from dictating how we will present our case. If you want to exchange witness lists, we are willing to agree to a date. Otherwise, we will present whomever we see fit.

Edward  
Sent from my Verizon Wireless BlackBerry

-----Original Message-----

From: "Geoff Baker" <[gabaker@dowellbaker.com](mailto:gabaker@dowellbaker.com)>

Date: Tue, 13 May 2008 07:53:57  
To: "'Louis Alex'" <[laalex@cookalex.com](mailto:laalex@cookalex.com)>  
Cc:<[emanzo@cookalex.com](mailto:emanzo@cookalex.com)>, "'Joel Bock'" <[jbock@cookalex.com](mailto:jbock@cookalex.com)>, "'Jason Smalley'" <[jsmalley@cookalex.com](mailto:jsmalley@cookalex.com)>, "'Steven Katz'" <[SKatz@masudafunai.com](mailto:SKatz@masudafunai.com)>, "'George Kobayashi'" <[GKobayashi@masudafunai.com](mailto:GKobayashi@masudafunai.com)>, "'Nancy Sasamoto'" <[NSasamoto@masudafunai.com](mailto:NSasamoto@masudafunai.com)>, "'Bob Karton'" <[robert@karton.us](mailto:robert@karton.us)>, "'Vernon Francissen'" <[VERN@FRANCISSENPATENTLAW.COM](mailto:VERN@FRANCISSENPATENTLAW.COM)>  
Subject: RE: Witness Lists

Louis,

You have made a final determination; you have done so by not informing us of any other witnesses so that we can timely depose them.

Geoff

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From: Louis Alex [mailto:[lalex@cookalex.com](mailto:lalex@cookalex.com)]  
Sent: Tuesday, May 13, 2008 12:49 AM  
To: 'Geoff Baker'  
Cc: [emanzo@cookalex.com](mailto:emanzo@cookalex.com); 'Joel Bock'; 'Jason Smalley'; 'Steven Katz'; 'George Kobayashi'; 'Nancy Sasamoto'; 'Bob Karton'; 'Vernon Francissen'  
Subject: RE: Witness Lists

Geoff:

As we stated previously, it is not our present intention to call witnesses other than those that either have been deposed or are now schedule to be deposed. However, we have not made a final determination.

Please let us know if there is a date on which you would propose we exchange witness lists.

Louis

-----

From: Geoff Baker [mailto:[gabaker@dowellbaker.com](mailto:gabaker@dowellbaker.com)]  
Sent: Monday, May 12, 2008 7:16 PM  
To: 'Louis Alex'  
Cc: [emanzo@cookalex.com](mailto:emanzo@cookalex.com); 'Joel Bock'; 'Jason Smalley'; 'Steven Katz'; 'George Kobayashi'; 'Nancy Sasamoto'; 'Bob Karton'; 'Vernon Francissen'  
Subject: RE: Witness Lists

Louis,

We take it from your silence that MMU has determined that no live witnesses - other than those people who have already been deposed (or will be deposed May 15 and 19).

Regarding the May 19 deposition of MMU, we continue to wait for you to identify the MMU

designee so that we can prepare for the deposition.

Geoff

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From: Geoff Baker [mailto:[gabaker@dowellbaker.com](mailto:gabaker@dowellbaker.com)]  
Sent: Friday, May 09, 2008 7:54 PM  
To: 'Louis Alex'  
Cc: 'emanzo@cookalex.com'; 'Joel Bock'; 'Jason Smalley'; 'Steven Katz'; 'George Kobayashi'; 'Nancy Sasamoto'; 'Bob Karton'; 'Vernon Francissen'  
Subject: RE: Witness Lists  
  
Louis,

Please, either identify the witnesses that you intend to call to present live testimony in support of your motion immediately (and for those that you have yet to supply us with potential deposition dates also supply us with those dates) or choose not to call any live witnesses. We remind you that today was the date on which the preliminary injunction was initially scheduled. Why the delay in supplying us with the names of potential live witnesses? Why the cat and mouse game? Just tell us the names and provide potential deposition dates so that we can prepare our response. You have asked the Court for one of the most extreme remedies provided for by our system and yet you continually delay and continually attempt to thwart our ability to reasonably prepare our response to your motion.

We look forward to receiving the names and potential dates.

Geoff

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From: Louis Alex [mailto:lalex@cookalex.com]  
Sent: Friday, May 09, 2008 3:32 PM  
To: 'Geoff Baker'  
Cc: emanzo@cookalex.com; 'Joel Bock'; 'Jason Smalley'; 'Steven Katz'; 'George Kobayashi'; 'Nancy Sasamoto'; 'Bob Karton'; 'Vernon Francissen'  
Subject: RE: Witness Lists  
Geoff:

It is not our present intention to call witnesses which have not been deposed or are now scheduled to be deposed, but we have yet to make a final determination. Again, we ask upon which date would you propose exchanging witness lists?

Louis

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From: Geoff Baker [mailto:gabaker@dowellbaker.com]  
Sent: Thursday, May 08, 2008 10:41 PM  
To: 'Louis Alex'  
Cc: emanzo@cookalex.com; 'Joel Bock'; 'Jason Smalley'; 'Steven Katz'; 'George Kobayashi'; 'Nancy Sasamoto'; 'Bob Karton'; 'Vernon Francissen'  
Subject: RE: Witness Lists

Louis,

In your moving papers seeking a preliminary injunction, you included two declarations. Other than those two individuals, one of whom is a lawyer with your firm, MMU has done nothing to identify any live witness that it might be permitted to call at a hearing on that motion. This is in stark contrast to our voluntarily providing you, nearly three weeks early, with three declarations on which we will rely in opposing your motion. We provided those declarations to you so that you had ample opportunity to cross-examine those witnesses in advance of the hearing. We are now two weeks away from the hearing. Either immediately (meaning by noon tomorrow) identify the witnesses that you plan to call and provide us with an opportunity to cross-examine them before our response is due or choose not to call anyone other than the witnesses who have been or are already set to be deposed.

Geoff

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From: Louis Alex [mailto:lalex@cookalex.com]  
Sent: Thursday, May 08, 2008 8:07 PM  
To: 'Geoff Baker'  
Cc: emanzo@cookalex.com; 'Joel Bock'; 'Jason Smalley'; 'Steven Katz'; 'George Kobayashi'; 'Nancy Sasamoto'; 'Bob Karton'; 'Vernon Francissen'  
Subject: RE: Witness Lists  
Geoff:

Your position regarding live witnesses is acknowledged.

With respect to your second point, please see page 19, lines 1 through 5 of the attached transcript.

Louis

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From: Geoff Baker [mailto:gabaker@dowellbaker.com]  
Sent: Thursday, May 08, 2008 7:50 PM  
To: 'Louis Alex'  
Cc: emanzo@cookalex.com; 'Joel Bock'; 'Jason Smalley'; 'Steven Katz'; 'George Kobayashi'; 'Nancy Sasamoto'; 'Bob Karton'; 'Vernon Francissen'  
Subject: RE: Witness Lists

Louis,

Perhaps, you did not read the last part of my email below. To reiterate, we do not believe that live witnesses are either warranted or that Judge Kendall has indicated that live witnesses will be permitted.

Geoff

Geoffrey A. Baker  
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From: Louis Alex [mailto:lalex@cookalex.com]  
Sent: Thursday, May 08, 2008 7:22 PM  
To: 'Geoff Baker'  
Cc: emanzo@cookalex.com; 'Joel Bock'; 'Jason Smalley'; 'Steven Katz'; 'George Kobayashi'; 'Nancy Sasamoto'; 'Bob Karton'; 'Vernon Francissen'  
Subject: Witness Lists

Dear Geoff:

We have not yet determined which witnesses we intend to call at the preliminary injunction hearing.

We are amenable to the parties exchanging their respective witness lists on a mutually agreed upon date.

If your agreeable to such an arrangement, please let us know.

Thank you.

Louis

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From: Geoff Baker [mailto:gabaker@dowellbaker.com]  
Sent: Tuesday, May 06, 2008 2:22 PM  
To: 'Louis Alex'; 'Bob Karton'; 'Vernon Francissen'  
Cc: 'emanzo@cookalex.com'; 'Joel Bock'; 'Jason Smalley'; 'Steven Katz'; 'George Kobayashi'; 'Nancy Sasamoto'  
Subject: RE: Deposition Scheduling - Mr. Nagasawa  
Louis,

On a related note, please identify immediately each witness that you intend to call as a witness at the preliminary injunction hearing. Also note that we do not believe that live witnesses are either warranted or that Judge Kendall has indicated that live witnesses will be permitted.

Geoff

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From: Louis Alex [mailto:lalex@cookalex.com]  
Sent: Monday, May 05, 2008 5:48 PM  
To: 'Geoff Baker'; 'Bob Karton'; 'Vernon Francissen'  
Cc: emanzo@cookalex.com; 'Joel Bock'; 'Jason Smalley'; 'Steven Katz'; 'George Kobayashi'; 'Nancy Sasamoto'  
Subject: Deposition Scheduling - Mr. Nagasawa  
Dear Geoff:

Mr. Nagasawa will be available for deposition in the offices of Cook Alex on Thursday, May 15. As noted previously, he will need a translator.

Please let us know at your earliest convenience whether this date is acceptable.

Thank you

Sincerely,

Louis

Louis J. Alex  
Attorney at Law  
<mailto:lalex@cookalex.com> lalex@cookalex.com

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Cook, Alex, McFarron, Manzo, Cummings & Mehler, Ltd.